

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7601

BILL NUMBER: SB 506

NOTE PREPARED: Apr 9, 2007

BILL AMENDED: Apr 9, 2007

SUBJECT: Private Investigator and Security Guard Licensing.

FIRST AUTHOR: Sen. Merritt

FIRST SPONSOR: Rep. Tincher

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

Changes to Detective License Law- The bill changes the detective license law to the private investigator firm license law and the security guard agency license law.

Exemptions From Licensure- The bill removes exemptions concerning: (1) armored services agencies and owners of industrial plants from the private investigator firm license laws; and (2) armored service agencies from the security guard agency license laws. The bill removes one year residency requirement to obtain a license as a private investigator firm.

Pocket Cards- The bill requires a pocket card to be issued to a licensed private investigator firm and a licensed security guard agency.

Establishment of New Board/Repeal of Current Board & Penalties- The bill establishes: (1) the Private Investigator and Security Guard Licensing Board (PISGLB); and (2) requirements for security guard agency licensing. The bill changes a Class A infraction to a Class A misdemeanor for certain violations of the private investigator and security guard agency licensing laws. The bill makes conforming changes. The bill repeals provisions concerning: (1) the private detective licensing laws application to certain law enforcement officers; and (2) the establishment of the Private Detectives Licensing Board (PDLB).

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Establishment of New Board/Repeal of Current Board-* The PDLB

would be abolished under the bill. All powers, rights, obligations, functions, liabilities, and assets of the PDLB would be transferred to the PISGLB. The number of board members would remain the same: the Superintendent of the State Police/designee and six Governor appointed persons. Members would receive the same per diem (not allowed if the member is a state employee) and duty expenses as allowed under current law. Therefore, there should be minimal increases in expenditures necessary to transfer Professional Licensing Agency (PLA) staff, supplies, and other materials to the proposed PISGLB.

The PLA currently has a work group of four personnel that perform the administrative functions for the PDLB. This particular work group also staffs four other professional boards and commissions. Assuming that 1/5th of this work group's time is devoted to the existing PDLB, the transferred staff time would equate to approximately \$28,200 in current salary. The new board would require expenditures for stationary and other items exhibiting the new board's letterhead.

(Revised) *Exemptions From Licensure*- The bill would require security guard agencies to be licensed by the Private Investigator/Security Guard Licensing Board (PISGLB). The bill would exempt railroad police from security guard licensure. The bill would exempt retail merchants employing private investigators for loss prevention investigations from private investigator firm licensure. Additionally, owners of industrial plants, owners of retail establishments, and their employees would be exempt from security guard licensure when hiring a security guard to patrol their plants and establishments. The PISGLB would need to establish rules for a licensing fee and other licensing matters regarding security guards.

If an additional staff person (at the COMOT level) were necessary to accommodate additional security guard licenses, the expense for the additional staff person would be approximately \$39,300 in FY 2008 and \$37,900 in FY 2009.

Background- As of October 2006, the PLA had 92 full-time employees. The PLA reverted \$63,329 to the state General Fund at the close of FY 2006. The January 1, 2007, vacancy report indicates the PLA has 16 vacancies worth \$342,000. As of December 2006, there were 713 private detective agencies and 16,017 authorized employees licensed by the PDLB. Total revenue generated in FY 2006 by private detective licensing fees was \$130,834.

Explanation of State Revenues: *Changes to Detective License Law*- Licenses for private investigation and security guard agencies would have a duration of **four** years instead of the current **two** years. The license fee for a detective is currently \$150. The impact to revenues over the duration change of the license is unknown. However, the Board could adjust fees by rule to compensate for the extended license. The amount of revenue that could be generated from security guard licensure is indeterminable. The impact would depend on the licensure fees set for security guards by the proposed board and the number of security guard agencies applying for licensure. Estimates on the number of security guards in Indiana range from 9,000 to 17,000. Security guard license fee revenue would be deposited into the state General Fund.

Persons that serve the Attorney General as independent consultants to handle unclaimed property would not be required to be licensed as a private investigation agency. This provision would have a minimal impact on private investigator license revenue. There are currently three independent consultants for the Attorney General that handle electronic audits of unclaimed property that would fall under the proposed exemption.

Background- Total revenue generated in FY 2006 by private detective licensing fees was \$130,834. Current private detective licensing fees are deposited in the state General Fund.

Pocket Cards- The bill would require persons licensed as security agencies to have a pocket card. Currently, the PDLB issues private detective identification cards for \$5 and \$10. With an increased base of applicants, under the bill, revenue generated by pocket card fees should increase.

Penalty Provisions- The bill changes a Class A infraction to a Class A misdemeanor. *Additionally, the bill adds several Class A misdemeanors, which could increase revenue deposited into the Common School Fund.*

With respect to the change from an infraction to a misdemeanor, the bill potentially increases revenue to the Common School Fund, but could reduce revenue that is deposited in the state General Fund. Fines from misdemeanors are deposited in the Common School Fund, while infraction judgements are deposited in the state General Fund. Currently, the maximum judgment for a Class A infraction is \$10,000, which is deposited into the state General Fund, while the maximum fine for a Class A misdemeanor is \$5,000, which is deposited into the Common School Fund. Besides the issuance of fines, the sentencing court may assess a criminal costs fee if a guilty verdict is entered. The court fee for an infraction is \$70, while the court fee for a misdemeanor is \$120. The state receives 70% of the court fee that is assessed when a guilty verdict is entered and the fee is collected in a court of record and 55% if a case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Security guards practicing without a license could also be subject to a fine equal to the amount of compensation for services performed without a license. The maximum civil penalty under this provision would be able to exceed \$10,000 if necessary to comply with the charged compensation. Private detectives already have a similar provision in law.

Explanation of Local Expenditures: *Penalty Provisions-* Local expenditures could increase if offenders are incarcerated in local jails instead of being only fined. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost of housing an offender in jail is reported to be \$44. There is no term of imprisonment for an infraction.

Explanation of Local Revenues: *Penalty Provisions-* Local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors. Twenty-seven percent of criminal costs fees that are collected are deposited in the county general fund when a guilty verdict is entered for a misdemeanor. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. From city and town courts, the county general fund receives 20% of the criminal costs fee while the city or town general fund receives 25%. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction; Professional Licensing Agency; Attorney General.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; January 1, 2007, vacancy report; State Budget Agency: FY 2006 closeout documentation; Indiana Professional Licensing Agency; *Indiana Handbook Of Taxes, Revenues, and Appropriations*; U.S. Bureau of Labor Statistics, U.S. Bureau of Census.

Fiscal Analyst: Chris Baker, 317-232-9851.